

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**HONORABLE AVERN COHN**

**No. 05-80955-2**

**DEMETRIUS EDWARD FLENORY (2),**

Defendant.

\_\_\_\_\_ /

**SENTENCING HEARING**

**Friday, September 12, 2008**

**Appearances:**

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On behalf of Plaintiff

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- - -  
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*Proceedings recorded by mechanical stenography.  
Transcript produced by computer-aided transcription.*

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Detroit, Michigan

Friday, September 12, 2008

2:28 p.m.

- - -

**THE CLERK:** Now calling Case Number 05-80955,  
Defendant Number 2, *United States of America v.*  
*Demetrius Flenory*. Will counsel please identify themselves  
for the record.

**MS. ISON:** Again, good afternoon, Your Honor.  
Dawn Ison for the government.

**THE COURT:** Mr. Flenory, you are here on your plea  
of guilty to a violation of Count 2, I believe, Continuing  
Criminal Enterprise, and Count 10, Conspiracy to Launder  
Monetary Instruments.

I have received a presentence report from the  
probation office, which recommends an Offense Level of 42  
and a Criminal History Category of II, which calls for a  
guideline range of 360 months to life on Count 2, 240 months  
maximum on Count 1. I take it there are no additions,  
deletions or corrections to the presentence report and what  
I have said is accurate.

You may address the Court or your lawyer may  
address it or both of you may address it.

**MR. FINDLING:** Your Honor, Drew Findling.  
Your Honor, very briefly. Just to address the chronology of

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1       our entering the guilty plea on behalf of Mr. Flenory, at  
2       the conclusion of the reviewing of voluminous discovery,  
3       wire taps, DEA 6's, I think my best count was over 14,000  
4       pages, once we completed that review, Mr. Flenory, as one of  
5       the prosecutors said in our plea negotiations, manned up and  
6       immediately told us he wanted to enter a guilty plea in this  
7       case. One of the things, as we put in our memorandum, that  
8       he asked for even though he had not been in communication --

9               **THE COURT:** You filed a memorandum?

10              **MR. FINDLING:** Yes, we did.

11              **MR. FEINBERG:** It was this morning.

12              **THE CLERK:** I didn't get it.

13              **MR. FEINBERG:** I have a copy, if the Court wishes.

14              **THE COURT:** Well, we'll take a five-minute break  
15       while I read it.

16              **MS. ISON:** Thank you, Your Honor.

17              **THE COURT:** Everybody can be seated.

18              **MR. FINDLING:** Thank you.

19              **THE COURT:** One minute, one minute.

20              Well, there seems to be a dispute whether or not  
21       this conspiracy began while defendant was still on probation  
22       from the March 20, 1991 sentence out of Recorder's Court.  
23       Is that the government's position?

24              **MS. ISON:** I don't know that it makes much  
25       difference, Your Honor, but --

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1           **THE COURT:** Because the Recorder's was one-year  
2 probation, so --

3           **MS. ISON:** What was the year, Your Honor? I'm  
4 sorry, I don't remember.

5           **THE COURT:** Does this conspiracy extend back to  
6 before March 20th, 1992?

7           **MS. ISON:** Yes, Your Honor.

8           **THE CLERK:** '91.

9           **THE COURT:** No, '91 is when the sentence was  
10 imposed.

11           **MS. ISON:** It does, Your Honor, before then, yes.  
12 So it's the government's position that he was on probation  
13 during the course of the conspiracy.

14           **THE COURT:** The government's position is the  
15 conspiracy began in 1990. There is nothing to the contrary.

16           **MR. FINDLING:** We don't think that's going to  
17 effect sentencing.

18           **THE COURT:** It doesn't effect sentencing. Well,  
19 but you raised the objection so I have to resolve it. I  
20 find that the Criminal History Category of II is correct.

21           **MS. ISON:** Thank you, Your Honor.

22           **MR. FINDLING:** Your Honor, again with the  
23 chronology, we notified the government that it was, that it  
24 was Mr. Flenory's intention to enter a guilty plea.

25           **THE COURT:** Are you saying that he should get --

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1 the government should have filed a motion for substantial  
2 assistance?

3 **MR. FINDLING:** No, we are not saying that. We are  
4 saying that in mitigation.

5 **THE COURT:** Just so we are clear.

6 **MR. FINDLING:** With that in mind, Your Honor, we  
7 made, we made arrangements with the Court and the  
8 U.S. Attorney's Office to arrange an opportunity for  
9 Demetrius Flenory to be able to meet with his brother Terry  
10 to let him know that he, even though they hadn't  
11 communicated in years, that he intended to enter a guilty  
12 plea and he was advising his brother to do the same. As he  
13 will address the Court, he felt it was time to bring the  
14 case to an end and to draw a conclusion for so many people  
15 who had been damaged by the case.

16 I cannot tell you with certainty that that is what  
17 influenced Mr. Flenory, Mr. Terry Flenory. I do know that  
18 once Demetrius Flenory entered his plea I think within  
19 48 hours Terry Flenory, who was apparently going to go to  
20 trial, came before Your Honor and entered his plea. And as  
21 we feel the Court is aware, the trial of Demetrius and/or  
22 Terry Flenory would have been a whole different process  
23 altogether in terms of the resources, how time-consuming it  
24 would have been, and things to that degree.

25 So we feel that Demetrius Flenory did realize his

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1       need to enter a guilty plea and did realize that the number  
2       one codefendant in the case he needed to speak to, and that  
3       was his brother.

4               Mr. Feinberg.

5               **MR. FEINBERG:** The only thing that we would ask is  
6       Mr. Demetrius Flenory has had a long history of drug use and  
7       that the Court recommend the intensive drug treatment  
8       program and also recommend the facilities in Jesup, the  
9       federal correctional institution in Jesup or the Atlanta  
10      correctional facility. He has family in the Atlanta area  
11      that this would be very convenient for them to be able to  
12      maintain a relationship with him.

13              **THE COURT:** Do you want to say something?

14              **MR. FEINBERG:** Or Northern Florida if those are  
15      not available.

16              **THE DEFENDANT:** Yes, Your Honor. I just want to  
17      say that I feel bad really for this going on so long and for  
18      all the families that me and my brother got in trouble  
19      during this big ordeal. You know, I don't think I'm sorry  
20      is really the right words to say because most people is only  
21      sorry that they got caught. So I just ask that you show me  
22      as much leniency as possible so that I can get on and do my  
23      time. I'm just tired of being in the county jail. I have  
24      been there for three years.

25              **MS. ISON:** Your Honor, I would just say that

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1 Mr. Demetrius Flenory didn't plead until November 2007.  
2 That was nearly two years after he was indicted in this  
3 case. The government agrees that Mr. Flenory, when he did  
4 have this epiphany, that he did try to make arrangements to  
5 assist his brother with pleading as well. That meeting did  
6 not go very well, as counsel is well aware. In fact, it was  
7 disastrous.

8 And I don't know if the Court recalls that  
9 Mr. Flenory was here in the morning or at some point during  
10 the court and still demanding a jury trial. All of the  
11 parties left the courtroom, and it was his father,  
12 Charles Flenory, who the government believes was  
13 instrumental in convincing Terry Flenory to plead guilty.  
14 Possibly Mr. Demetrius Flenory's meeting with him had some  
15 impact, but I think the greatest impact came from his  
16 father.

17 Your Honor, in this case, much like in his  
18 brother's case, they both were coleaders, and the government  
19 believes that the guideline range reflected in the Rule 11  
20 is sufficient but not greater than necessary to satisfy the  
21 goals of 18 United States Code 3553. As the Court is aware,  
22 both brothers were facing mandatory life, and the government  
23 removed that particular charge from the indictment and  
24 believes that this guideline range is an appropriate  
25 sentence in this case.



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1           **THE COURT:** Is there a forfeiture aspect of this?

2           **MS. BECK:** Yes, there is, Your Honor. For the  
3 record Mr. Flenory did sign a preliminary order on  
4 June 17th of 2008, which has been entered by the Court, and  
5 as reflected in his Rule 11 and the preliminary order, we  
6 would like to request that the J and C reflect the money  
7 judgment and I have also sent that language to the court for  
8 inclusion in the J and C.

9           **THE COURT:** Do you have an order for me to sign?

10          **MS. BECK:** The signature is at the bottom part of  
11 the stipulation that we sent so there's not one for you to  
12 sign right now, but --

13          **THE COURT:** Thank you.

14          **MS. BECK:** Thank you.

15          **MR. FINDLING:** Your Honor, could I just address  
16 one thing for one second?

17               That was -- there were two things. One was we  
18 acknowledge that is correct, that meeting was a disaster.  
19 There was just use of different Mr. Flenorys, and I just  
20 want to be clear that we acknowledge that meeting was a  
21 disaster, but it was a disaster because Mr. Demetrius  
22 Flenory was trying to persuade his brother to plea. And the  
23 prosecutor is correct, his brother after a long meeting  
24 rejected his attempt to persuade him to plea. It was after  
25 the guilty plea of Demetrius Flenory at some time within the

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1 next couple of days he pled.

2 The second thing is that we agreed at the plea  
3 that the pending case in Texas, Federal District Court in  
4 Texas would be dismissed by the government after this Court  
5 sentenced him, and we just wanted to make sure that on the  
6 record we acknowledge that.

7 **MS. ISON:** Yes, Your Honor. I intend to contact  
8 the Assistant United States Attorney in the Eastern District  
9 of Texas. It is our agreement and understanding that they  
10 will dismiss that particular indictment once  
11 Mr. Demetrius Flenory has been sentenced here today.

12 **THE COURT:** I have already commented on the  
13 Court's view of the matter at hand so I'm not going to  
14 repeat that for this sentence. Everybody who is here heard  
15 it.

16 It is the sentence of the Court that you be  
17 committed to the custody of the Bureau of Prisons on Count 2  
18 for a term of 360 months, on Count 10 for a term of  
19 240 months to run concurrently, a \$200 special assessment,  
20 five years of supervised release on Count 2, three years of  
21 supervised release on Count 10 to run concurrently, and a  
22 special assessment of \$200.

23 The Court will recommend an institution in the  
24 area of Atlanta, Georgia up to the discretion of the Bureau  
25 of Prisons. Thank you.

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1           **MS. ISON:** Thank you, Your Honor.

2           **MR. FEINBERG:** Your Honor, what about the  
3 intensive drug program?

4           **THE COURT:** The Court will also recommend  
5 participation in the intensive drug program.

6           **MR. FEINBERG:** Thank you.

7           **MS. ISON:** Thank you, Your Honor.

8           **MS. BECK:** Thank you.

9           **THE COURT:** We are in recess.

10           (Proceedings concluded at 2:40 p.m.)

11                           -   -   -

12                           **C E R T I F I C A T I O N**

13           I, Sheri K. Ward, official court reporter for the  
14 United States District Court, Eastern District of  
15 Michigan, Southern Division, appointed pursuant to the  
16 provisions of Title 28, United States Code, Section 753,  
17 do hereby certify that the foregoing is a correct  
18 transcript of the proceedings in the above-entitled cause  
19 on the date hereinbefore set forth.

20           I do further certify that the foregoing  
21 transcript has been prepared by me or under my direction.

22  
23           *Sheri Ward*  
24           Sheri K. Ward  
25           Official Court Reporter

                          October 6, 2008  
                          Date Completed

                          -   -   -